United Nations A/C.5/61/21

General Assembly

Distr.: General
26 March 2007

Original: English

Sixty-first session
Fifth Committee
Agenda item 128
Administration of justice at the United Nations

Letter dated 26 March 2007 from the Acting President of the General Assembly to the Chairman of the Fifth Committee

I have the honour to transmit herewith a letter from the Vice-Chairman of the Sixth Committee dated 23 March 2007 with regard to agenda item 128, Administration of justice at the United Nations (see annex).

(*Signed*) Boniface G. **Chidyausiku**
Acting President

07-28228 (E) 260307

Annex

Letter dated 23 March 2007 from the Vice-Chairman of the Sixth Committee to the President of the General Assembly

I have the honour to write to you with regard to agenda item 128, Administration of justice at the United Nations.

As you are aware, at its 2nd plenary meeting, on 13 September 2006, the General Assembly decided to allocate this item to the Fifth Committee for its consideration and to the Sixth Committee for the purpose of considering the legal aspects, both institutional and procedural, of the matter.

The Sixth Committee continued its consideration of the item at its 24th and 25th meetings, on 12 and 23 March 2007, as well as in the context of a Working Group, during a resumed session convened in accordance with General Assembly decision 61/511.

During those meetings, the Sixth Committee expressed its appreciation for the report of the Redesign Panel (A/61/205), as well as for the comments of the Secretary-General thereon (A/61/758), and reached a preliminary agreement on certain points (see appendix I below).

I should emphasize that those points of agreement resulted from preliminary consideration of the item in the Sixth Committee, recognizing that the Fifth Committee had not considered the item and that the comments of the Advisory Committee on Administrative and Budgetary Questions had not been issued by the time of the resumed sixty-first session. The Sixth Committee noted that the proposals of the Redesign Panel and the Secretary-General generally conform to internationally recognized standards of justice and the rule of law, while recognizing that there might be other approaches to various aspects of the proposals that also would conform to such standards of justice and the rule of law. The views expressed by the Sixth Committee at this stage do not constitute, however, an endorsement of all the recommendations made either by the Redesign Panel or the Secretary-General. The Sixth Committee has decided that it should continue to discuss this item in the light of further information that may be provided to it.

It would be appreciated if the present letter, together with its enclosures, including the points of agreement (appendix I) and the text of the recommendation of the Sixth Committee to the General Assembly (appendix II) could be brought to the attention of the Chairman of the Fifth Committee.

(*Signed*) Ganeson **Sivagurunathan**
Vice-Chairman of the Sixth Committee
of the General Assembly

Appendix I

Points of agreement

1. The existing system of administration of justice in the United Nations has significant problems. Reform is necessary to strengthen the rule of law in the Organization and should be achieved expeditiously. The new system should be independent, transparent and professionalized, and should be developed consistent with relevant rules of international law and recognized principles of the rule of law and due process, taking into account the unique nature of the United Nations.

2. The new system of administration of justice should comprise an informal system and a formal system.[a]

3. The new system of administration of justice should be decentralized as necessary, in order to promote wider access to justice and to facilitate the disposition of disputes.

4. The informal system of administration of justice should be able to address as many grievances as possible at the earliest stage and should therefore be strengthened, through means that might include an integrated but decentralized office of the Ombudsman and a reinforced mediation function. The availability of mediation should be expanded as appropriate. Mediation provides suitable dispute settlement alternatives to lengthy and more costly formal litigation.

5. Complaints may be submitted either to the informal or the formal system of administration of justice. If a complaint is brought before the informal system, it should not be brought in parallel to the formal system as long as parties continue to pursue agreement under the informal system. Once parties have reached an agreement through mediation, they are precluded from litigating claims covered by that agreement. A party should, however, be able to bring an action in the formal system to enforce the implementation of that agreement. The submission of cases to the formal system should not preclude efforts of both sides to agree on an amicable solution in a timely and efficient manner before the final decision.

6. Legal assistance should continue to be provided to persons eligible under the system of administration of justice, but should be strengthened. The means for strengthening this legal assistance, such as a decentralized and professional office, should be considered.

7. Before a complaint is submitted to the formal system, management should be given the opportunity to review the contested decision within a specified short time.

8. The formal system of administration of justice should comprise two tiers, consisting of a first instance and an appellate instance, rendering binding decisions and ordering appropriate remedies. A decentralized first instance should replace existing Joint Appeals Boards and Joint Disciplinary Committees, and other bodies as appropriate. The appellate instance would review decisions rendered by the first instance in order to ensure uniform application of the rules throughout the system. Grounds for appeal remain to be discussed.

[a] The informal and formal systems include some extrajudicial and judicial mechanisms.

9. Judges in both instances should be highly qualified professionals of recognized judicial standing. They shall serve strictly in their personal capacity and enjoy full independence. The criteria for the selection of judges will have to be discussed further.

10. All procedures in the system of administration of justice should be consistent with relevant rules of international law and recognized principles of the rule of law and due process. Adequate safeguards should be considered to facilitate equality of access to justice of staff in all locations and the right to be heard. Transparency of proceedings in the formal system should be ensured, including through publication of decisions as appropriate and feasible, while respecting the protection of personal data.

11. There should be no exemplary or punitive damages awarded.

12. The question of accessibility to the formal and informal systems to persons who do not currently have adequate protection should be considered further.

Appendix II

Draft decision

Administration of justice of the United Nations

The General Assembly decides to continue at its sixty-second session, in the Sixth Committee, its consideration, under the agenda item entitled "Administration of justice at the United Nations", of the legal aspects, both institutional and procedural, of the report of the Redesign Panel on the United Nations system of administration of justice[1] and the comments of the Secretary-General on the recommendations contained in the report of the Redesign Panel,[2] taking into account the outcome of the deliberations of the Fifth Committee at the resumed sixty-first session of the General Assembly, and the report of the Advisory Committee on Administrative and Budgetary Questions,[3] and *requests* the Secretary-General, in accordance with any further decisions that may be taken by the Assembly on the recommendation of the Fifth Committee on this item during its sixty-first session, to provide more details on a proposal to strengthen the functions of the Office of the Ombudsman, including mediation, and draft elements of a statute or statutes for the first instance and the appellate instance, taking into account the points set out in appendix I to the letter from the Vice-Chairman of the Sixth Committee to the President of the General Assembly.[4]

---

[1] A/61/205.

[2] A/61/758.

[3] A/61/815.

[4] A/C.5/61/21, annex.